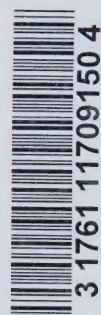


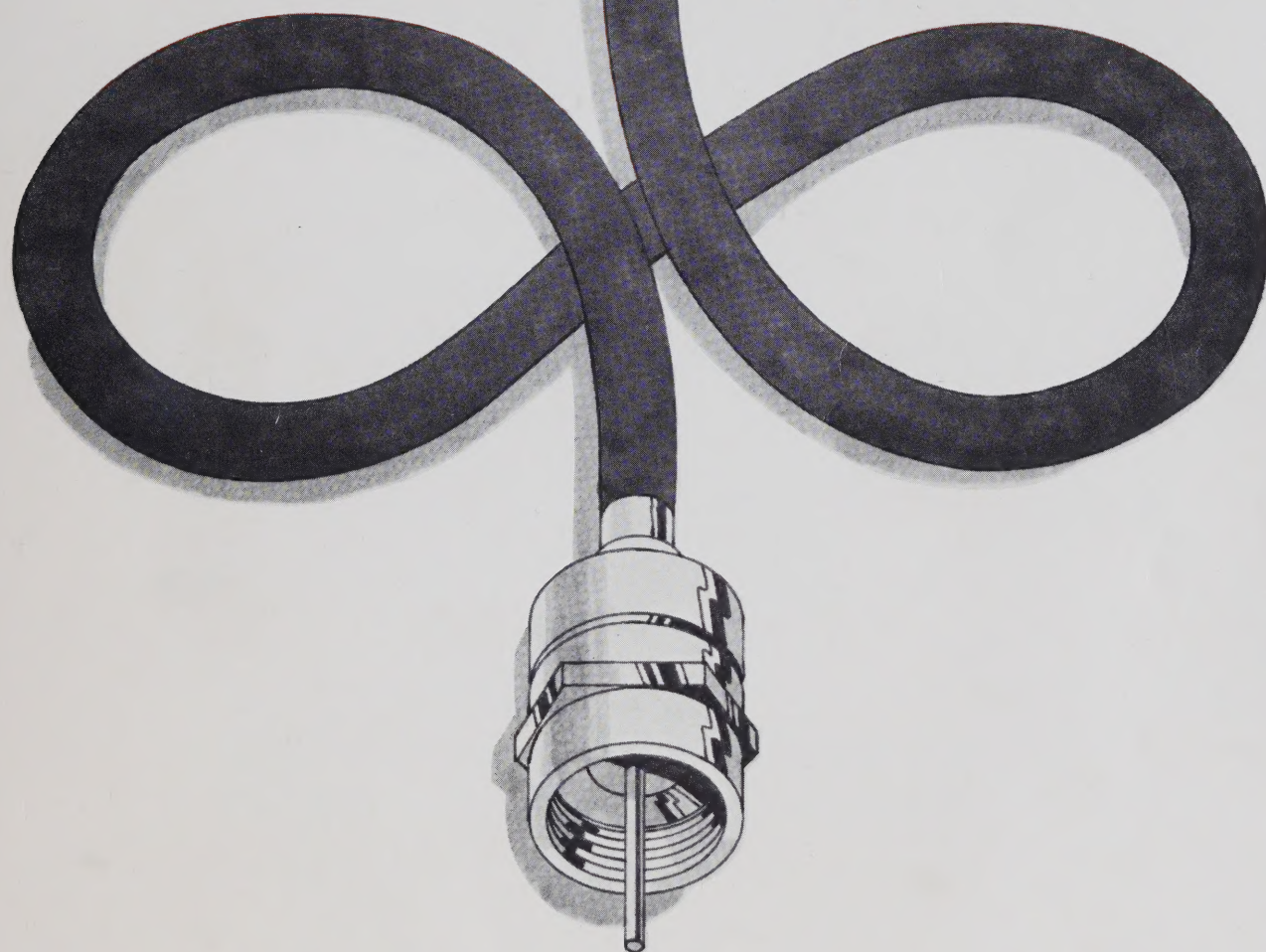
CAI
RT
-76P61

Ottawa / October 1st, 1976



Producer & Consumer

the cable connection



**A submission to the
Canadian Radio-television and Telecommunications Commission
on the introduction of pay television**

Canadian Cable Television Association
Association Canadienne de television par câble

CAI
RT
-76P6

PRODUCER AND CONSUMER

The cable connection

A submission to the
Canadian Radio-television and Telecommunications
Commission on the introduction of pay television

Canadian Cable Television Association
Association Canadienne de télévision par câble

Ottawa,
October 1st
1976.


I. Introduction

A-RECONCILIATION OF INTERESTS

The Canadian Cable Television Association/Association Canadienne de télévision par câble welcomes the Commission's invitation of June 30th to contribute to the national debate on the "form and function of an organization to assemble, produce and acquire programming for distribution to licensed broadcast undertakings for pay television".

The 295 members of CCTA/ACTC, as licensed broadcast undertakings, have a very direct interest in that form and function, and in the process of discussion and debate leading to it. Together, they represent three million cable subscribers or almost ten million individual Canadians who have chosen to receive their television signals by cable.

We will not review and repeat the lengthy submissions made in response to the Commission's earlier call for discussion in June 1975. Nor do we propose here a detailed operational blue print for Canada's new pay television system. Instead, we focus on what we believe will be the classic dilemma that the Government and the Commission faces. That dilemma is to reconcile the interests of the producing community with those of the consuming community. We call it "classic" because its implications run throughout Canadian experience. The terms of the Broadcasting Act provide but a microcosm of it.



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761117091504>

The Broadcasting Act of 1968

The dilemma Parliament faced in introducing the Broadcasting Act of 1968 was to balance its expression of national goals for our broadcasting system against the expressed wishes of the consuming public it is designed to serve. While the Broadcasting Act in Section 3(c) guarantees the right of persons to receive programs subject only to generally applicable statutes and regulations; in Section 3(d) guarantees access to programming by the producing community, using predominantly Canadian and other resources.

What Parliament could not do is guarantee the consumption (viewing) of programs. The CRTC is empowered to make regulations. The system can be regulated, but the viewers cannot. Apart from the confirmation of CBC/Radio-Canada as the principal instrument of national purpose in the broadcasting system, there are few positive regulatory mechanisms available to the Commission to achieve the objectives of Canadian broadcasting.

In pay television the government has such a positive option.

What is at issue was succinctly expressed in the Commission's concluding sentence of its own position paper issued in February 1975:

"The question is clear. Can a service be developed, devoid of commercial content and without interruption of program material, which will be of sufficient interest to the public to be marketable and financially sound and at the same time provide a new impetus to the growth of the Canadian program production industries?"

Our answer to that question, and the Commission's announcement of June 1976, is divided into four parts:

- I. The producing community, and its interest in the growth of the Canadian program production industries.
- II. The consuming community, and its interest in a new service for which it is the market.
- III. The cable industry's interest in delivering a service that is marketable and financially sound.
- IV. Recommendations for a national policy.

II. THE PRODUCING COMMUNITY

The members of the Canadian Cable Television Association wish to make it quite clear that they fully support the three major objectives outlined by the Minister of Communications in her speech of June 2nd, 1976, quoted in the CRTC's announcement of June 30th inviting this submission. CCTA's earlier submission of June 1975, accepted without reservation that a partnership of creative resources would have to be mobilized in order to warrant the issuance of licences, the primary condition of which would be the commitment of resources to the creation of a significant and new range of programming choices.

This commitment was reflected by the overflowing attendance at all the sessions on pay television at our Toronto Convention June 2nd, 1976. To these sessions, under the title of "Partnership for Production", we invited leading representatives of the conventional television broadcasting industry and of the creative, programming and production communities.

Since June 2nd, the Association officers along with our members who comprise PTN - Pay Television Network Limited/RTP - Réseau de Télévision à Péage Ltée have spent an active summer exploring the basis of partnership with broadcasters and the programming community, and with an interested public whom we sought out in three major public conferences over the past three months.

On the basis of these explorations, we have three observations that are fundamental to the development of pay television:

- 1) Pay television adds a unique and distinct dimension to our broadcasting system. It shares the electronic home screen and thus has some effect on the present broadcasting system, but it isn't broadcasting in the conventional sense. Among other distinctions, it is not a universal and national necessity and it is financed neither by direct government funds nor by advertisers. It is directed to meet an entirely discretionary want financed by an entirely discretionary consumer dollar.
- 2) The terms advanced by the Minister of Communications for the introduction of pay television to Canada are distinctively different from those prevailing in the United States. The regulatory pre-occupation in the United States, expressed in the Federal Communications Commission's rules, has been with the protection of the vested interest of the conventional broadcaster. No policies or rules have been established in the United States to ensure the creation of new product for the medium, nor to promote social/cultural objectives. In Canada, we interpret government intentions very directly to ensure the creation of new product and for very specific national purposes.
- 3) The most active and positive reactions to pay television have been expressed by representatives of the creative community, notably producers, performing organizations and filmmakers. Their common theme is the complaint that the present structure of the broadcasting system has denied them outlet for their creativity. Their common desire is to ensure that the structure of pay television serves their particular needs.

Graham Spry, the widely respected founder of the Canadian Broadcasting League, described the introduction of pay television as "the fourth crisis in Canadian broadcasting".

If it is indeed a crisis, it is not the introduction of pay television itself, but a recognition that the conventional structure of broadcasting has not proved adequate for the needs of the producing community. Pay television represents a response to the crisis because it brings new forces into play - new outlet, new sources of talent and new sources of payment for it.

We do not believe that the conventional advertiser-supported broadcasting industry is synonymous with the creation of programming utilizing predominantly Canadian resources. On the contrary the build-up of hardware and personnel by the conventional networks, in both English and French-speaking Canada, has tended to inhibit the growth of a lively independent programming industry.

To quote a statement from a recent study commissioned by the Department of Communications, Ottawa:

"A number of facts have emerged which point to the present Canadian content quota system as having been quite detrimental to the success of an independent industry...the requirement placed on the private broadcaster to produce Canadian content has led to such investment in hardware and staff that virtually all Canadian production can be done in-house. With the development of broadcaster-associated production houses, the independent producer is, in effect, a competitor."

If the objective of the Broadcasting Act is to increase the creative production capacity of this country, then our logical partner is what some see as the forgotten element of the broadcasting system - the independent producer.

There appear to be three factors that have limited the participation of the independent producer in broadcasting.

- 1) Original Canadian-produced film is a relative rarity on private advertiser-supported conventional networks, and indeed, is not much more used on the publicly-supported CBC networks. An explanation is given in the Department of Communications study:

"The production and post-production costs of film are such that no film program can be supported by the Canadian market alone. No independent producer in Canada contemplates using film as a medium of distribution unless the program is designed for international sales."
- 2) The independent producer, by reason of his limited participation in the conventional broadcasting system is not disciplined to the economic stringencies of filling a television schedule. His talent is more tuned to the single program or a film. It is a discipline and a talent much more likely to find expression and outlet within the discretionary movie/special environment that characterizes pay television.
- 3) A partnership with the independent programming community has the added advantage of eliminating the intrinsic conflict of interest which the conventional broadcaster would face in competing for screen time with the same viewer who is expected to continue to provide the mass audience required for the continued survival of conventional advertiser-supported television.

Few will dispute that the Canadian programming and production industries urgently require an infusion of funds.

Historic sources are at their limit.

Parliament has limited public spending through the CBC. The mandate of the CFDC is under review. Advertisers complain regularly of the high rates they are required to pay to assist private broadcasting in meeting its regulated obligations to the broadcasting system. Even the tax incentive methods of assisting the private film industry have reached their potential.

The single remaining new source is the public itself - through pay television.

Significantly, the production structure envisaged for Canadian pay tv programming requires no investment in production hardware, bricks or mortar. Physical production facilities, either privately-built or broadcaster-associated are available and so are the natural backgrounds of our streets and countryside. It will take a direct infusion of funds to the creative community to bring them to life in programs for the screen.

It is estimated by PTN that almost 80 million dollars would be generated by pay tv for Canadian production in its first five years.

To summarize this brief discussion of the producer's role in pay television we affirm that the function of pay television is to enhance, enrich and broaden viewing choice by providing increased opportunities for Canadian programming talents, and that members of CCTA/ACTC welcome a partnership for production with the independent programming community.

Before advancing our recommendation on the form of this partnership, we must now review and discuss the role of the other vital element in any process of communication - the consumer.

III. THE CONSUMING COMMUNITY

1. The Canadian cable television industry is consumer-connected in the most direct way by the voluntary payments Canadians make each month to utilize its services. Consumers have adopted a very proprietary interest in their local cable company, and as the Commission is well aware, are not reticent about making their likes and dislikes known.
2. The recent United States experience has been a dramatic response to the introduction of pay television. While viewing of conventional advertiser-supported television network programming remains high, consumers have jumped at the opportunity to subscribe to the added premium services provided by pay cable. As a consequence, United States cable television companies, accustomed to levels of consumer acceptance far less than those prevailing in Canada, have experienced rapid growth.
3. Research into viewer response in the United States shows high demand for fresh post-theatrical release movies uninterrupted by commercials, and available, like a movie theatre schedule, for multiple viewing at different periods over a period of a week or more. This research also shows that, because of the direct discretionary dollar he pays, the consumer is also much more volatile in his response to the pay tv service. Unlike his subscription to conventional cable, his pay cable dollar will be made, withdrawn and then reinstated in direct relationship to the satisfaction he receives each month from the product available. Levels of connect and disconnect are therefore high for pay television service.

4. Based on this recent U.S. experience, it is clear that while advertiser-supported television and subscriber-supported pay television will share the use of the electronic screen, there is a real distinction to be made in audience response and acceptance of them. The audience will continue to devote countless hours watching conventional television which he tends to regard as "free", while he is much more discriminating and demanding in his selection of programs for which he must pay directly. Pay television has more similarities with theatrical exhibition than it does with conventional home television, and thus viewer expectations will be higher and the requirement for a product to satisfy them will be correspondingly higher as well.

5. Finally, United States and new Canadian research (appended as part of the PTN/RTP proposal) shows that consumers generally would prefer to deal with a single company in the actual delivery of the pay television service. A single "black box", a single method of payment and a single source of service attention ensure a high acceptance of a service delivered by the existing and familiar local cable company.

The Canadian consumer will demand to have the same programming options afforded by pay tv. How then can this demand be reconciled with the interests of the Canadian creative community under the Broadcasting Act?

III. THE CABLE CONNECTION

A Marketable and Financially Sound Service

More than a hundred members of the Canadian Cable Television Association/Association Canadienne de Télévision par câble have, on the recommendation of CCTA's Long Range Planning and Policy Committee, joined together to establish PTN-Pay Television Network/RTP-Réseau de Télévision à Péage. These members have funded a company which should serve as a model for a pay television structure for Canada. The proposal of this company, which has been submitted, to the Commission may be read as the basis of a license application. It is fully endorsed by all members of CCTA/ACTC.

Our own conclusions will reinforce much of what PTN/RTP has proposed. However, our responsibility and our intent goes beyond PTN/RTP in trying to describe the interest of all cable television licensees in their role as exhibitors delivering a new cable service from whatever corporate source it originates.

1. Cable is the logical, natural delivery service for pay television. It has the cable connection and an established relationship with customers representing approximately 45% of all Canadian tv homes. It anticipates steady, continuing growth to approximately 70% of Canada. To select any other method of delivery would require subscribers to disconnect or switch from their multiple choice of conventional channels to receive the new pay channel(s).

2. Theoretically, individual cable system operators could add a pay cable service supplied by a third party, just as they carry U.S. or Canadian networks to which they have no program input, and for whose content they have no responsibility. However, we are most concerned that the organization supplying the programming is sufficiently sensitive to consumer preferences. The cable industry has come to feel more responsibility to play an active role in the broadcasting system rather than remaining the passive carrier of it. It is now possible to see that cable will become an equal contributing partner of the broadcasting system, as the Commission itself has predicted.
3. On a practical level, there are two other reasons why cable must and will become an active contributor to the new introduction of pay television.

Cable clearly has an already large investment in the plant that distributes television signals, and must continue its growth and renewal in response to public demand.

Cable system operators are increasingly held to account by the customers they serve directly, and will be even more so by the introduction of the new discretionary service.

4. For these reasons, the cable industry does not wish to sit back and retail a delivered product from an entirely independent source in which it has no investment, and over which it thus has no control. On the contrary, it wishes to meet its new responsibilities in the broadcasting system, and seeks a strong voice in the volume, quality and scheduling of the product for which it will be seeking a subscription.

5. Cable recognizes the potential for the ultimate delivery of more than one pay channel service designed to attract discriminating minorities with particular program needs. The capacities of coaxial cable, and the commitment of the cable companies to maximizing viewer choice, make multiple channel carriage both desirable and inevitable.

However, for reasons of availability of such specialized product and, the small market segments for which it would have appeal, we do not believe the introduction of a first level of pay tv service should be delayed.

We therefore recommend a single level national subscription channel with broad entertainment appeal as being the only viable alternative at this time. However, system design should provide for additional channel capacity and payment mechanisms for the future. Even in these early stages some systems may wish to utilize this capacity to provide alternate viewing times for the single service.

6. The basis of consumer appeal of pay tv service will, whether we like it or not, inevitably depend on recent, post-theatrical release of foreign product. Some will conclude that pay television holds only the potential for a further extension of foreign movie exhibition.

But it can and will do more.

It can because pay television, unlike theatrical movie exhibition, provides an equal conduit for Canadian as for foreign product. Under the monthly subscription approach, the audience is assembled in the home theatre and has already paid the price of his ticket for the combined number of attractions that month.

It will because there is general agreement on the allocation of a percentage of the gross subscriber revenue to the commissioning and acquisition of Canadian programming.

Nothing the Commission or the cable industry can do will force the consumer to watch one feature or another, but better quality programs from both sources will be automatically available.

Canadian motion picture producers complain, with justification, that the competitive demands of the market place have largely denied them outlet in Canadian movie theatres. The answer is not to build theatres restricted to the showing of domestic product. It is to guarantee the Canadian producer both funding for and access to what we are confident will be the popular, well-patronized home theatre of pay television.

7. CCTA/ACTC welcomes the participation of broadcasters as investors in a new independent programming agency to assemble, produce and acquire programming for pay television. However, we believe that majority control of the new organization should be held by cable licensees.

As we have suggested in an earlier section, the introduction of pay television represents a new and unique dimension of the broadcasting system, and will require new disciplines and new talents. Just as skill in radio programming was not necessarily adaptable to the new dimension of television, neither will skill in commercial tv programming necessarily suit the new requirements of subscriber pay television. Broadcasters and cable operators as investors will together have to search out and develop new people for a new task.

8. To view pay television as an extension of the conventional broadcasting system would be to underestimate its potential for realization of the objectives of the Broadcasting Act.

Canadians will have a right to expect something new from a pay cable subscription that they do not presently receive from the conventional system. The Commission's announcement confirms this, and we agree. That fact, coupled with the regulatory powers of the Commission, should ensure that the dangers of siphoning from or duplicating the offerings of conventional television are minimized. Clearly Canadians will not pay a premium for programming they already receive, and regulation will not permit the transfer of it from "free" to paid service.

9. Some suggest that programming for pay cable should be subject to the same, or a similar, percentage requirement of hours of Canadian content programming. This requirement has been, at best, a moderate success in increasing or maintaining the Canadian content and character of the broadcasting system. Like most regulation it has created its own loopholes, at worst in the form of time-consuming strips of low quality, generally low audience appeal, off-prime time formula programming, churned out by in-house broadcast staff and production facilities.

The content formula has done nothing to encourage or promote excellence. And excellence, albeit in smaller quantities of time, will be the prime requirement of an optional premium service. The cable industry proposes a reasonable financial formula, but it would not be prepared to market, nor would its customers be prepared to buy, a service based on present Canadian content requirements.

10. With characteristic Canadian caution, several well-meaning observers have also urged limited experimentation, possibly in the form of single market testing of response to pay television. CCTA believes this to be self-defeating. Only large-scale introduction of pay television to the largest number of potential subscribers as rapidly as possible will produce a sufficiently large base of revenues on which Canadian producers will be able to draw in order to create new, high quality Canadian programming for the service. Clearly the revenue available from a test market would not yield sufficient dollars to mount Canadian programming of sufficient volume or quality to test anything.

11. Finally, there is a vocal and visible minority that expresses the view that the introduction of pay television should be deferred indefinitely.

It is worth recalling that the introduction of the first Canadian television service was delayed four years after its availability in the United States, thereby tuning tv antennas to the border stations. The introduction of color television in Canada was delayed more than ten years after its availability in the United States, thereby increasing the attractiveness of the border stations.

At this moment, for the first time, Canada has the opportunity to start at almost the same time. Pay television in the United States is still in its formative stages, and Canadian entrepreneurs have the opportunity to contribute to its development as suppliers of programs with some bargaining position. To delay would be to lose that bargaining position. Even more disastrous would be to envisage the development of over-the-air pay tv transmitters in the U.S. border cities which could be accessed by de-scramblers available on the open market.

To those who ask "why the rush, why now?", we say "why the delay?".

The Canadian production industry needs more funds now. Our Canadian film producers need more access to the public - now. In our view, Canada has only an illusory gain from delay and much to lose.

In summary of this section, we confirm our belief in the objectives for the introduction of pay television. We urge the Government and the Commission to maintain its strong sense of realism in the approach to the structure of the system.

It will take courage and wisdom to move boldly, and to avoid the temptation of structuring a system formulated on so many rules and theories that it results in an unproducable product or an unmarketable service.

IV. RECOMMENDATIONS FOR A NATIONAL POLICY

The preceding sections have reviewed the function of a pay television system for Canada, and have offered the conclusions we draw from our analysis of the new relationships into which producers and consumers will enter through their cable company.

We now turn to the form those relationships might take within the structure of a new organization for distribution of pay television. We start with the three basic options discussed in the speech of the Minister of Communications to the CCTA/ACTC in Toronto, June 2nd, 1976.

1. The first was that of individual licensees. We agree that this option is unlikely to provide the requisite benefits to the broadcasting system, because of the lack of resources which an individual licensee could bring to bear on the objectives. While there can, and probably should, be provision for regional input at the local licensees' option, the objectives of the national broadcasting system can only be met within the framework of a single national organization.
2. The second was a consortium of cable and broadcasting operators. We agree with the Minister that this option "is worthy of careful examination", but in the past four months we have regretfully come to share the fear that such a consortium could become stillborn due to the vested interests of both participating parties. The cable industry's vested interest is clearly in the extensive and highly developed cable distribution plant, which forms the basis for the additional requirements of the pay television distribution system.

The vested interest of the broadcaster is quite apparently in the protection of its existing commercially-oriented and commercially sustained franchise rather than in the increased diversity of programming that would be available to the viewer through pay tv.

3. The third option advanced by the Minister was the establishment of a pay television distributor or network, owned and operated independently from existing off-air broadcasters or cable licensees. It is this position that the members of CCTA/ACTC favour, and it is for this reason that a number of our members have chosen to fund and support the creation of an independent programming and distribution corporation PTN-Pay Television Network Limited/RTP-Réseau de Télévision à Péage Ltée.

As the submission of PTN/RTP demonstrates, management of PTN would be independent from the operation of existing licensees of broadcast receiving undertakings. Investment in the new organization would be available to broadcasters, the independent production community and other interested parties. It would have its own Board of Directors and professional management dedicated to the success of the new programming and distribution organization.

Finally the Minister requested commentary on whether a new monopoly structure should be a public corporation or a mixed corporation involving both private and public participation. CCTA recognizes that the concept of a mixed corporation has been used in other recent forms of government enterprise.

However, the members of CCTA/ACTC question whether such an allocation of public funds commands a significant national priority, particularly in this time of budget restraint. We do not see persuasive evidence for such an investment in what will be essentially a discretionary service highly subject to market forces, and where the funding of the enterprise is already assured from the private sector.

Indeed, government funding of such a project at this time would probably result in a new storm of criticism against the government's choice of spending priorities.

Moreover, in the highly subjective world of programming judgments involving creativity, criticism and volatile audience participation we question whether direct government participation is in its own interests.

That is not to say that the public interest would not be clearly defined and represented, both through the regulatory powers of the CRTC, or if that were not deemed sufficient, through direct participation on the Board of Directors.

SUMMARY

These then are the principles CCTA/ACTC recommends for the form and function of the new organization:

- o A new privately funded national organization whose purpose would be to commission, acquire and distribute the new pay television service to all regions of Canada with production in both official languages.
- o Not less than 50% of the new organization would be held, at arm's length, by licensed cable companies with participation available in the balance to broadcasters, the creative community and other private investors.
- o Prime responsibility of the management of the new corporation would be to stimulate the independent Canadian programming community both by investment and by providing access hitherto denied them by the economics of conventional television.
- o The principal contribution to the broadcasting system would be to provide a new source of high quality subscriber-supported programming, distinct from that available on conventional television.
- o A secondary contribution to the broadcasting industry would be to make subsequent runs of such Canadian programming available for general over-the-air release at subscriber subsidized prices.
- o Existing cable plant, modified to accept pay television, is the most economical form of exhibition permitting maximum flow of consumer dollars to production.

Finally,

WE BELIEVE Canadians will welcome the opportunity to subscribe to pay television

WE BELIEVE the service will add a significant new dimension of Canadian programming to the broadcasting system

WE BELIEVE the interests of the producing community and the consuming community can and must be reconciled

WE BELIEVE that this should be allowed to happen with the minimum burden of governmental or regulatory restriction.

Respectfully submitted,

Ottawa,
October 1st,
1976

Canadian Cable Television Association
Association Canadienne de Télévision par câble

